

Appendix A

Laws and Regulations Affecting Base Reuse Implementation

The Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (BCRA 88, Title II of Pub. L. 100-526, 10 U.S.C. § 2687 note), and the Defense Base Closure and Realignment Act of 1990 (DBCRA 90, Part A of Title XXIX of Pub. L. 101-510, 10 U.S.C. § 2687 note), establish the basic requirements for identifying and implementing domestic military base closures and realignments.

Since their enactment, the base closure laws have been amended and supplemented by several key statutes, including

- The National Defense Authorization Act for Fiscal Years 1992 and 1993 (NDAA 92/93, Pub. L. 102-190).
- The National Defense Authorization Act for Fiscal Year 1993 (NDAA 93, Pub. L. 102-484).
- The National Defense Authorization Act for Fiscal Year 1994, which includes the Base Closure Community Assistance Act, the “Pryor Amendments,” as Title XXIX (NDAA 94, Pub. L. 103-160).
- The National Defense Authorization Act for Fiscal Year 1995 (NDAA 95, Pub. L. 103-337).
- The Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (“Redevelopment Act,” Pub. L. 103-421).

Collectively, these laws contain provisions that authorize or require the Secretary of Defense to take actions to initiate and implement base realignment and closure (BRAC) decisions. Installations affected by BRAC decisions are referred to as BRAC installations. In addition, these laws identify other applicable legal authorities, thereby creating the current system of rules that govern base reuse implementation.

Laws and Regulations Affecting Base Reuse Implementation

Provisions in the laws listed above authorize the Secretary of Defense to:

- Provide assistance to communities that experience adverse economic circumstances as a result of base closures or realignments.
- Work with local redevelopment authorities (LRAs) to identify and implement means of reutilizing or redeveloping BRAC installations.
- Designate a Base Transition Coordinator for each closing base to facilitate base reuse implementation.
- Ensure that the needs of the homeless within the local community are taken into consideration during redevelopment planning.
- Complete Federal, State, and local screening of excess and surplus real property within clearly specified timeframes.
- Inventory and transfer personal property to recipients of real estate under certain circumstances.
- When necessary to support economic redevelopment, convey items of personal property directly to LRAs.
- Complete environmental impact analysis activities within specified times to support disposal decision making.
- Maintain minimum levels of maintenance and repair necessary to support non-military reuse for specific time periods.
- Lease property to LRAs at less than fair market rental value when it is in the public interest.
- Convey real and personal property to LRAs at less than fair market value when appropriate to support economic redevelopment and when other authorized disposal methods cannot meet that goal.
- Establish separate transfer accounts to fund, and receive proceeds from, base reuse implementation activities.

Specific laws referenced in BCRA 88 and DBCRA 90, as amended by NDAA 94, and BCCRHA 94 include the following:

- **The Stewart B. McKinney Homeless Assistance Act**, as amended (McKinney Act) [42 U.S.C. §11301 *et seq.*], governs the identification and utilization of buildings and property that are suitable for homeless assistance on many BRAC 88, BRAC 91 and BRAC 93 installations. BRAC 95 bases have been specifically exempted from the provisions of the McKinney Act and are only subject to the provisions of the Redevelopment Act.

- **Sections 203 and 204 of the Federal Property and Administrative Services Act of 1949, as amended (FPASA or “49 Act”)** [40 U.S.C. 3483, 484], govern the utilization of excess Federal property and the disposal of surplus Federal property.
- **Public Law 103-272 (1994)**, which remodified Section 13(g) of the Surplus Property Act of 1944 (SPA or “44 Act”) [49 U.S.C. §§ 47151-47153], governs the disposal of surplus Federal property for use as a public airport. [formerly codified at 50 U.S.C. App. § 1622(g)].
- **The Act of May 19, 1948, as amended [16 U.S.C. § 667b–d]**, governs the transfer of Federal property to State agencies, or to the Department of the Interior, for wildlife conservation purposes.
- **The National Environmental Policy Act of 1969, as amended (NEPA)** [42 U.S.C. § 4321 *et seq.*], requires the Federal Government to assess the potential environmental impacts of its proposed action to dispose of surplus Federal property prior to making final disposal decisions.
- **Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA)** [42 U.S.C. § 9601 *et seq.*], governs:
 - Responses to releases of hazardous substances, pollutants, or contaminants.
 - Deed notification and covenant and lease notification requirements for property transfer at BRAC installations. [Note: In some cases, property can now be transferred to private parties before remedial action has been taken and the covenant requirements have been fulfilled.]
- **Other applicable statutes** that protect natural and cultural resources and govern environmental responses on Federal lands.

The above statutes, their implementing regulations, and the provisions of BCRA 88, DBCRA 90, NDAA 92/93, NDAA 93, NDAA 94, NDAA 95 and the Redevelopment Act listed above, define the basic legal framework for base reuse implementation. This legal framework is depicted in Figure A-1, which identifies the two base closure laws, and other relevant laws or categories of laws (including certain statutory references) that affect base reuse implementation.

The statutes and regulations shown in Figure A-1 are summarized for easy reference in Table A-1. Table A-1 also includes items not depicted on Figure A-1 as well as pertinent Department of Defense (DoD) directives (not shown in Figure A-1) and other regulations that provide guidance for implementing the Federal requirements. Table A-2 summarizes the legal authorities governing the disposal of surplus Federal property. Table A-3 identifies deadlines that have been established by Federal law to encourage timely completion of base reuse implementation and economic conversion.

Figure A-1. Legal Authorities Affecting Base Reuse Implementation

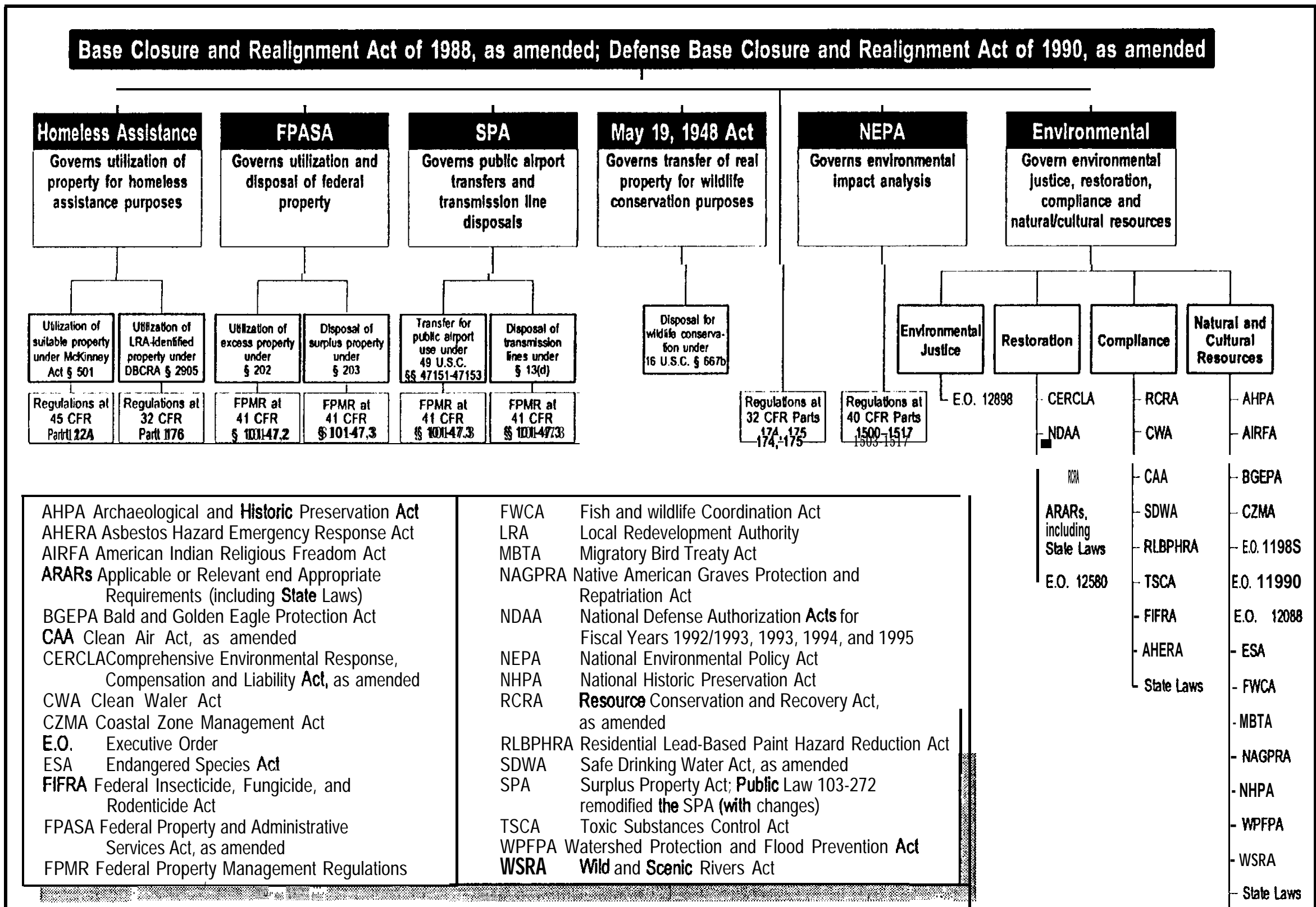


Table A-1. Legal Authorities Affecting Base Reuse Implementation

LAW/REGULATION/ AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (BCRA 88), Pub. L. 100-26, 10 U.S.C. § 2687 note	24 October 1988	<ul style="list-style-type: none"> Provides procedures to facilitate the closure and realignment of obsolete or unnecessary military installations Requires compliance with the FPASA, SPA, NEPA and environmental laws Calls for completion of all BRAC 88 actions by 30 September 1995 	Secretary of Defense, with delegated authority to the DoD Components (base closure and conversion implementation)
Defense Base Closure and Realignment Act of 1990 (DBCRA 90), Pub. L. 101-510, 10 U.S.C. § 2687 note	5 November 1990	<ul style="list-style-type: none"> Provides a process designed to result in timely closure and realignment of military installations Requires compliance with the FPASA, SPA, the May 19, 1948 Act, environmental laws, and NEPA (but no EIS is required for closure) Requires that all BRAC 91 base closures and realignments be complete by 10 July 1997 	Secretary of Defense, with delegated authority to the DoD Components (base closure and conversion implementation)
National Defense authorization Act for Fiscal Years 1992 and 1993 (NDAA 92/93), Pub. L. 102-190 §§ 334(a), 2821, 2827	5 December 1991	<ul style="list-style-type: none"> Requires that Draft Final RI/FSs for BRAC 88 bases on the NPL be submitted to EPA by 4 December 1993 (24 months). Draft Final RI/FSs for BRAC 91 bases on the NPL must be submitted to EPA by 4 December 1994 (36 months) Allows for a six-month extension under certain conditions Amended DBCRA 90 to clarify requirements of the Commission and to establish the BRAC account as the sole source of environmental restoration funding 	DoD Components
National Defense authorization Act for Fiscal Year 1993 (NDAA 93), Pub. L. 102-484	23 October 1992	<ul style="list-style-type: none"> Made funds available to the Economic Development Administration (EDA) for economic adjustment assistance with respect to base closures 	Secretary of Defense

Defense Authorization Acts, including BRAC Statutes and amendments

Laws and Regulations Affecting Base Reuse Implementation

Table A-1. Legal Authorities Affecting Base Reuse Implementation

LAW/REGULATION/ AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
National Defense authorization Act for Fiscal Year 1994 (NDAA 94), Pub. L. 103-160, Title XXIX, §§ 2901-2930; 32 CFR Parts 174, 175	30 November 1993	<ul style="list-style-type: none"> Amends BCRA 88, DBCRA 90, 10 U.S.C. § 2667, 10 U.S.C. § 2391(b), FPASA, and NDAA 92/93 Amendments are specific to personal property, real property screening, McKinney Act compliance, leasing, contracting with communities or small/disadvantaged businesses, transferring property at less than fair market value, and economic adjustment assistance Also contains provisions for base transition coordinators, CERCLA § 120(h)(4) compliance, and NEPA compliance 	Secretary of Defense, with delegated authority to the DoD Components (base closure and conversion implementation)
National Defense authorization Act for Fiscal Year 1995 (NDAA 95), Pub. L. 103-337	5 October 1994	<ul style="list-style-type: none"> Provides assistance for public participation in Department of Defense environmental restoration activities Includes clarifying and technical amendments to BCRA 88 and DBCRA 90 	Secretary of Defense, with delegated authority to the DoD Components (base closure and conversion implementation)
Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Redevelopment Act), Pub. L. 103-421; 32 CFR Part 176	25 October 1994	<ul style="list-style-type: none"> Amends BCRA 88 and DBCRA 90 Exempts BRAC 95 installations from the Stewart B. McKinnley Homeless Assistance Act (others may request exemption) Establishes a new process for LRA accommodation of homeless assistance needs during redevelopment planning 	Secretary of Housing and Urban Development; Secretary of Defense, with delegated authority to the DoD Components (base closure and conversion implementation)
National Defense Authorization Act for Fiscal Year 1996 (NDAA 96), Pub. L. 104-106	10 February 1996	<ul style="list-style-type: none"> Provides for longer term interim leases Amends the Redevelopment Act Establishes a new property transfer authority called a leaseback Allows DoD to transfer BRAC property in exchange for the construction of family housing 	Secretary of Defense, with delegated authority to the DoD Components (base closure and conversion implementation)

Table A-1. Legal Authorities Affecting Base Reuse Implementation

LAW/REGULATION/ AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
National Defense Authorization Act for Fiscal Year 1997 (NDAA 97), Pub. L. 104-201	23 September 1996	<ul style="list-style-type: none"> Restored authority for intragovernment transfers at BRAC 88 sites Allows DoD to contract for police and fire protection at facilities remaining on property not yet transferred Allows property to be transferred before cleanup is complete 	Secretary of Defense, with delegated authority to the DoD Components (base closure and conversion implementation)
Federal Property and Administrative Services Act (FPASA), 40 U.S.C. § 471 et seq.; Federal Property Management Regulations, 41 CFR Part 101-47 (Real Property) and 41 CFR Parts 101-48-101-45 (Personal Property)	30 June 1949	Provides a mechanism for: <ul style="list-style-type: none"> the utilization of excess Federal property the disposal of surplus Federal property the procurement and supply of personal property and non-personal services records management 	General Services Administration, with partial delegation (for the utilization of excess and the disposal of surplus Federal property) to the Secretary of Defense under 38CRA and 39BCRA
Surplus Property Act (SPA), 40 U.S.C. App. § 1622(d) and 49 U.S.C. §§ 47151-47153	3 October 1944	Governs power transmission line disposals in cases of surplus Federal property, and provides for conveyance of surplus Federal property for use as a public airport (subject to approval by FAA)	General Services Administration, with partial delegation to the Secretary of Defense under 38CRA and 39BCRA, and Federal Aviation Administration
Act of May 19, 1948, 16 U. S. C. 5667b-d	19 May 1948	Provides for transfer of Federal property to State agencies or the Department of the Interior for wildlife conservation purposes	General Services Administration
Stewart B. McKinney Homeless Assistance Act (McKinney Act), 42 U.S.C. § 11301 et seq.	22 July 1987	<ul style="list-style-type: none"> Title V (Section 501) requires DoD Components to identify unutilized, underutilized, excess or surplus property (e.g., housing at installations being closed) that may be suitable for use by the homeless Notification is to the Department of Housing and Urban Development (HUD). HUD notifies the Department of Health and Human Services of property suitable for the homeless Does not apply to BRAC 95 bases, which are specifically exempted by the Redevelopment Act 	Council on Homeless (reporting accomplished by DoD Components; screening by Department of Housing and Urban Development [HUD])

**Federal Property
Laws**

Laws and Regulations Affecting Base Reuse Implementation

Table A-1. Legal Authorities Affecting Base Reuse Implementation

LAW/REGULATION/ AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
10 U.S.C. § 2667 (Military Leasing Act), as amended	10 August 1956	<ul style="list-style-type: none"> Identifies requirements for leasing military property to prospective lessees when such a lease will promote the national defense or be in the public interest 	DoD Components
Indian Self-Determination Act, 25 U.S.C. §§ 450f-450n	4 January 1975	<ul style="list-style-type: none"> Provides for grants or contracts with tribal organizations for educational or health purposes or for strengthening tribal governments Authorizes the Secretary of the Interior to acquire property in trust for such purposes 	Department of the Interior (contracting and/or providing grants)
Indian Reorganization Act, 25 U.S.C. §§ 461-479	18 June 1934	<ul style="list-style-type: none"> Provides for reorganization of tribal and non-tribal lands Authorizes the Secretary of the Interior to acquire land to be held in trust for tribes 	Department of the Interior (land acquisition and transfers)
Civil Rights Act of 1964, 28 U.S.C. § 1447, 42 U.S.C. §§ 1971, 1975a-1975d, 2000a-2000h-6	2 July 1964	<ul style="list-style-type: none"> Provides for enforcement of voting rights Prohibits discrimination in places of public accommodation and public facilities 	DoD Components and their grantees (ensuring non-discrimination)
Rehabilitation Act of 1973, 29 U.S.C. §§ 701-709, 720-724, 730-732, 740, 741, 750, 760-764, 770-776, 780-787, 790-794	26 September 1973	<ul style="list-style-type: none"> Guarantees equal opportunity for individuals with handicaps in order to maximize their employability and integration into the workplace and community 	DoD Components and their grantees (ensuring handicapped accessibility)
Stevenson-Wydler Technology Innovation Act of 1980 (Pub. L. 96-480, as amended), 15 USC 3710(i)	21 October 1980	<ul style="list-style-type: none"> Authorizes the transfer of excess research equipment to educational institutions and nonprofit organizations 	Directors of laboratories; head of any Federal Agency or Department
Public Buildings Cooperative Use Act (PBCUA), 40 U.S.C. §§ 490, 601a, 606, 611, and 612a	18 October 1976	<ul style="list-style-type: none"> Encourages adaptive reuse of historic buildings as administrative facilities for Federal Agencies or activities 	Secretary of Defense in conjunction with Department of the Interior
10 U.S.C. § 2391 (Military Base Reuse Studies and Community Planning Assistance)	1 December 1981	<ul style="list-style-type: none"> Authorizes the Secretary of Defense to make grants to State and local governments, and regional organizations, to assist them in planning community adjustments in response to base closures 	Department of Defense through a variety of Federal assistance programs

**Financial Assistance
Laws**

Table A-1. Legal Authorities Affecting Base Reuse Implementation

LAW/REGULATION/AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
National Environmental Policy Act (NEPA) 12 U.S.C. § 4321 et seq.; Regulations for Implementing the Procedural Provisions of NEPA at 40 CFR Parts 1500-1508; Executive Order 11514, as amended by Executive Order 11991	1 January 1970	<ul style="list-style-type: none"> Provides a process to help Federal officials make decisions that are based on an understanding of environmental consequences, and take actions that protect, restore, and enhance the environment Requires that the DoD Components analyze potential environmental impacts of proposed actions and alternatives for base disposal decisions 	President's Council on Environmental Quality [CEQ]; NEPA process execution by DoD Components (Environmental Assessment, Categorical Exclusion, or Environmental Impact Statement)
Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.; 40 CFR Parts 300-311	11 December 1980	<ul style="list-style-type: none"> Requires the conduct of any needed response actions to clean up contamination, addressing risks to human health and the environment posed by past releases of hazardous substances Section 120(h) of this act, as amended by the Community Environmental Response Facilitation Act (CERFA), governs the identification of uncontaminated parcels and covenant requirements for deed transfers of contaminated parcels 	DoD Components are execution agents under the Defense Environmental Restoration Program; US EPA, and State oversight enforcement agencies; (consultation and approval requirements)
Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq.; 40 CFR Parts 240-281	21 October 1976	<ul style="list-style-type: none"> Requires the establishment of management systems for hazardous waste (Subtitle C), non-hazardous solid waste (Subtitle D), and underground storage tanks (Subtitle I) Provides corrective action authority for cleanup of solid waste management units 	U.S. EPA with delegation of the base RCRA program and the Hazardous and Solid Waste Amendments [HSWA] program to State agencies (permit requirements)
Clean Water Act (CWA), 33 U.S.C. §§ 1251-1387; 33 CFR Parts 320-330, 335-338; 40 CFR Parts 104-140, 230-233, 401-471; Executive Order 11990 (Protection of Wetlands)	18 October 1972	<ul style="list-style-type: none"> Establishes controls on point source and non-point source discharges to surface waters under the National Pollutant Discharge Elimination System. Establishes permitting requirements for construction activities in waterways and wetlands 	Army Corps of Engineers/U.S. EPA (permit requirements)

Environmental Laws

Laws and Regulations Affecting Base Reuse Implementation

Table A-1. Legal Authorities Affecting Base Reuse Implementation

LAW/REGULATION/ AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
Clean Air Act (CAA) , 42 U.S.C. § 7401 <i>et seq.</i> ; 40 CFR Parts 50, 60, 61, and 80	31 December 1970	<ul style="list-style-type: none"> • Mandates improvements to air quality through establishment of National Ambient Air Quality Standards; nonattainment requirements; technology and risk standards for air toxics; permit requirements for sources of air emissions; State Implementation Plans for implementing compliance with standards; and conformity determinations for Federal Agency actions except base closure final disposals 	U.S. EPA with partial delegation to State agencies (permit requirements)
Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f- 300j-26; 40 CFR Parts 141-149	16 December 1974	<ul style="list-style-type: none"> • Defines substances for which the U.S. EPA must set drinking water standards • Authorizes establishment of underground injection controls on wells used for waste disposal 	U.S. EPA permit requirements)
Toxic Substances Control Act (TSCA) , 15 U.S.C. §§ 2601- 2671; 40 CFR Parts 700-799	11 October 1976	<ul style="list-style-type: none"> • Provides for the specific regulation of PCBs and asbestos • Requires maintenance of an inventory of manufactured chemicals and requires filing of a premanufacture notification for chemicals not in the inventory 	U.S. EPA permit requirements)
Asbestos Hazard Emergency Response Act (AHERA), 15 U.S.C. §§ 2641-2655; 40 CFR Part 763	22 October 1986	<ul style="list-style-type: none"> • Amends TSCA to govern inspection of asbestos-containing materials in schools and completion of appropriate response and abatement activities 	U.S. EPA (inspection and response)
Lead-Based Paint Poisoning Prevention Act (LBPPPA) , 42 U.S.C. §§ 4801 -4846	13 January 1971	<ul style="list-style-type: none"> • Requires establishment of procedures for eliminating immediate hazards related to lead-based paint and for notifying purchasers of the presence of lead-based paint • Eliminates use of lead-based paint 	Department of Housing and Urban Development and Department of Health and Human Services (establishment of procedures)
Residential Lead-Based Paint Hazard Reduction Act (RLBPHRA) , Title X of Pub. L. 102-550	28 October 1992	<ul style="list-style-type: none"> • Governs transfers of pre-1978 Federal property for residential use • Requires inspection and notification for post-1960 structures • Requires inspection and abatement for pre-1960 housing 	Department of Defense (inspection and Notification or abatement)

Table A-1. Legal Authorities Affecting Base Reuse Implementation

LAW/REGULATION/ AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
Federal Insecticide , Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 <i>et seq.</i> ; 40 CFR Parts 152-186	21 October 1972	<ul style="list-style-type: none"> Establishes a registration program for pesticide and other substances Governs disposal of pesticides and pesticide containers 	U.S. EPA (permit requirements)
American Indian Religious Freedom Act (AIRFA), 42 U.S.C. § 1996	11 August 1978	<ul style="list-style-type: none"> Protects and preserves religious freedoms of Native Americans, including access to religious sites 	Affected tribes (consultation requirements)
Archaeological and Historic Preservation Act (AHPA), 16 U.S.C. § 469	17 June 1960	<ul style="list-style-type: none"> Governs activities that may affect historic or archaeological resources Directs Federal Agencies to coordinate with the Department of the Interior 	Department of the Interior (notification requirements if jeopardized resources found)
Bald and Golden Eagle Protection Act (BGEPA), 16 U.S.C. § 668	June 1940	<ul style="list-style-type: none"> Governs activities and facilities that may threaten protected birds 	Department of the Interior (permit required if golden eagle nest is found)
Coastal Zone Management Act (CZMA), 16 U.S.C. §§ 1451-1464; 15 CFR Parts 921-933	17 October 1972	<ul style="list-style-type: none"> Encourages States along oceans and Great Lakes to adopt Coastal Zone Management Plans (CZMP), which require any applicant for a Federal permit to certify that its project is consistent with the State CZMP 	Department of Commerce
Endangered Species Act (ESA), 16 U.S.C. §§ 1531-1544; 50 CFR Parts 17,401-424,450-453	28 December 1973	<ul style="list-style-type: none"> Requires protection of threatened or endangered species by prohibiting activities and facilities that would have an adverse effect on them 	U.S. Fish and Wildlife Service (requires biological assessment, mitigation plan if species found)
Fish and Wildlife Coordination Act (FWCA), 16 U.S.C. §§ 661-666	12 August 1958	<ul style="list-style-type: none"> Requires persons to consult with Federal and State agencies when modifying, controlling, or impounding a surface water body over 4 hectares in size 	U.S. Fish and Wildlife Service
Migratory Bird Treaty Act (MBTA), 16 U.S.C. §§ 703-712	13 July 1918	<ul style="list-style-type: none"> Governs activities that may affect or threaten migratory birds or their habitats 	Department of the Interior (consultation requirements if birds or nests are found)
Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. §§ 3001-3013	16 November 1991	<ul style="list-style-type: none"> Governs discovery and handling of Native American human remains and objects 	Department of the Interior (notification and consultation)

Natural and Cultural Resources Laws

Table A-1. Legal Authorities Affecting Base Reuse implementation

Executive Orders

LAW/REGULATION/ AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
National Historic Preservation Act (NHPA), 16 U.S.C. § 470; 36 CFR Parts 60,63,68, 800; Executive Order 11593 (Protection and Enhancement of the Cultural Environment)	5 October 1966; 13 May 1971 (E.O.)	<ul style="list-style-type: none">Establishes a program for the preservation of additional historic properties throughout the nationSection 106 of the NHPA establishes a process to identify conflicts between historic preservation concerns (e.g., properties included or eligible for the National Register of Historic Places) and Federal undertakings	Advisory Council on Historic Preservation, State Historic Preservation Officers, Department of the Interior (consultation requirements)
Watershed Protection and Flood Prevention Act (WPPFA), 16 U.S.C. § 1001 et seq.; 33 U.S.C. § 701-1; Executive Order 11985 (Floodplain Management)	4 August 1964	<ul style="list-style-type: none">Governs reservoir development and stream modification projects including specific wildlife habitat improvements	Department of Agriculture—Soil Conservation Service
Wild and Scenic Rivers Act (WSRA), 16 U.S.C. § 1271 et seq.	2 October 1968	<ul style="list-style-type: none">Preserves and protects the free-flowing condition of selected rivers. Established a national Wild and Scenic Rivers System	Department of the Interior
Executive Order 12088		<ul style="list-style-type: none">Establishes process for ensuring Federal Agency compliance with Federal, State, and local pollution control requirementsOutlines a process for resolution of disputes between the Environmental Protection Agency and Federal Agencies, specifying the Office of Management and Budget as dispute resolution agent	Presidential order involving the Environmental Protection Agency, Department of Defense, State, and Office of Management and Budget
Executive Order 12372 (as amended by Executive Order 12416)	8 April 1983	<ul style="list-style-type: none">Requires Federal Agencies to provide opportunities for consultation by elected officials of State and local governments	DoD Components in consultation with community
Executive Order 12580	23 January 1987	<ul style="list-style-type: none">Addresses delegation of certain duties and powers assigned to the President in CERCLA to heads of Federal Agencies	Presidential Order delegating authority to the Secretary of Defense—DoD C
Executive Order 12788	15 January 1992	<ul style="list-style-type: none">Creates the Defense Economic Adjustment Program to coordinate economic adjustment assistance for communities affected by Defense downsizing	Secretary of Defense, Economic Adjustment Committee
Executive Order 12999, (Improving Mathematics and Science Education in Support of the National Education Goals)	17 April 1996	<ul style="list-style-type: none">Gives preference to elementary and secondary schools in the transfer or donation of education-related Federal equipment such as computers	Military Department (identification and transfer of surplus property)

Table A-1. Legal Authorities Affecting Base Reuse implementation

LAW/REGULATION/ AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	11 February 1994	<ul style="list-style-type: none"> Requires the creation of an Interagency Working Group on Environmental Justice to develop guidance for Federal Agencies on environmental justice strategies Requires Federal Agencies to include diverse segments of the population in research, data collection, and analysis Requires Federal Agencies to solicit public views-red to consider environmental justice values in decision-making 	Department of Defense (guidance) DoD Components (analysis; actions)
DoD Directive 1000.3	29 March 1979	<ul style="list-style-type: none"> Safety and Occupational Health Policy for the Department of Defense 	Department of Defense
DoD Directive 3030.1	29 November 1978	<ul style="list-style-type: none"> Office of Economic Adjustment 	Department of Defense
DoD Directive 4140.25	8 January 1983	<ul style="list-style-type: none"> DoD Bulk Petroleum Management Policy 	Department of Defense
DoD Directive 4150.7	24 October 1983	<ul style="list-style-type: none"> DoD Pest Management Program 	Department of Defense
DoD Directive 4165.6	1 September 1987	<ul style="list-style-type: none"> Real Property Acquisition, Management, and Disposal 	Department of Defense
DoD Directive 4165.60	4 October 1976	<ul style="list-style-type: none"> Solid Waste Management—Collection, Disposal, Resource Recovery and Recycling Program 	Department of Defense
DoD Directive 4165.66	12 February 1996	<ul style="list-style-type: none"> Revitalizing Base Closure Communities Implements the provisions of Title XXIX of NDAA 94; codified at 32 CFR Part 174 Forms the basis for much of the material in this Manual 	Department of Defense
DoD Directive 4210.15	27 July 1989	<ul style="list-style-type: none"> Hazardous Material Pollution Prevention 	Department of Defense
DoD Directive 4500.34	10 April 1986	<ul style="list-style-type: none"> DoD Personal Property Shipment and Storage Program 	Department of Defense
DoD Directive 4700.4	24 January 1989	<ul style="list-style-type: none"> Natural Resources Management Programs 	Department of Defense
DoD Directive 4720.1	21 June 1984	<ul style="list-style-type: none"> Archeological and Historic Resources Management 	Department of Defense
DoD Directive 5030.41	1 June 1971	<ul style="list-style-type: none"> Oil and Hazardous Substances Pollution Prevention and Contingency Program 	Department of Defense

DoD Directives and Instructions

Laws and Regulations Affecting Base Reuse Implementation

Table A-1. Legal Authorities Affecting Base Reuse Implementation

LAW/REGULATION/ AUTHORITY	DATE	SUMMARY OF KEY PROVISIONS	RESPONSIBLE AGENCY (REQUIREMENT)
DoD Directive 5100.50	24 May 1973	<ul style="list-style-type: none">• Protection and Enhancement of Environmental Quality	Department of Defense
DoD Directive 5410.12	22 December 1987	<ul style="list-style-type: none">• Economic Adjustment Assistance to Defense-Impacted Communities	Department of Defense
DoD Directive 6050.1	30 July 1979	<ul style="list-style-type: none">• Environmental Effects in the United States of DoD Actions	Department of Defense
DoD Instruction 4165.67	4 March 1996 (changes issued on: 7 May 1997)	<ul style="list-style-type: none">• Revitalizing Base Closure Communities-Base Closure Community Assistance• Implements Title XXIX of NDAA 94; codified at 32 CFR Part 175• Forms the basis for much of the material in this Manual	Department of Defense
DoD Instruction 4165.68	4 March 1996 (reissued on 27 May 1997)	<ul style="list-style-type: none">• Revitalizing Base Closure Communities and Community Assistance - Community Redevelopment and Homeless Assistance• Implements the Redevelopment Act, as amended, codified at 32 CFR Part 176• Forms the basis for part of the material in this Manual	Department of Defense

Table A-2, Surplus Federal Property Transfer Methods

Type of Property, Purpose, or Method	Transfer Type ¹	Federal Agency with Authority	FMV Discount	Statutory and Regulatory Authority
PUBLIC AIRPORT CONVEYANCE	Approved	Federal Aviation Administration	100%	49 U.S.C §§ 47151-47153, 41 CFR 101-47.308-2
PUBLIC BENEFIT CONVEYANCE CATEGORIES				
Historic Monument	Approved	Department of the Interior	100%	FPASA § 203(k)(3), 41 CFR 101-47.308-3
Education	Sponsored	Department of Education	Up to 100%	FPASA § 203(k)(l), 41 CFR 101-47.308-4
Public Health	Sponsored	Department of Health and Human Services	Up to 100%	FPASA § 203(k)(l), 41 CFR 101-47.308-4
Public Park or Recreation	sponsored	Department of the Interior	up to 100%	FPASA § 203(k)(2), 41 CFR 101-47.308-7
Non-Federal Correctional Facility	Approved	Department of Justice	100%	FPASA § 203(p)(l), 41 CFR 101-47.308-9
Port Facility	sponsored	Department of Transportation	100%	FPA5A § 203(q)(l), 41 CFR 101-47.308-10
Shrines, Memorials, or Religious Uses [only as part of another public benefit conveyance] ²	Sponsored	Department of Education or Department of Health and Human Services	Up to 100%	41 CFR 101-47.308-5
Homeless Assistance [Public Health] ³	sponsored	Department of Health and Human Services	up to 100%	42 U.S.C. § 11411, FPASA § 203(k)
OTHER SPECIFIC CONVEYANCE CATEGORIES				
Power Transmission Lines	Approved	Military Department	None	SPA § 13(d), 41 CFR 101-47.308-1
Housing for Displaced Persons	Requested ⁴	Military Department	Up to 100%	URARPAPA § 218, 41 CFR 101-47.308-8
Wildlife Conservation	Approved	Department of the Interior	Up to 100%	16 U.S.C. § 667b-d
Federal-Aid or Other Highways [to States]	Sponsored	Department of Transportation	100%	23 U.S.C. §§ 107, 317
Widening of Public Highways or Streets	Approved	Military Department	up to 100%	40 U.S.C. § 345C
Homeless Assistance	Approved	Department of HUD	100%	BCCRHA § 2
NEGOTIATED SALE	Sale	Military Department	None	FPASA § 203(e), 41 CFR 101-47.304
PUBLIC SALE	Sale	Military Department	None	FPASA § 203(e), 41 CFR 101-47.304
DEPOSITORY INSTITUTION FACILITIES	Sale	Military Department	None	NDAA 92/93 § 2825, NDAA 94 § 2928
LEASEBACK	Approved	Military Department	Up to 100%	NDAA 96, Title XXVIII § 2837
ECONOMIC DEVELOPMENT CONVEYANCE	Approved	Military Department	Up to 100%	NDAA 94, Title XXIX, § 2903

Key to Table A-2

¹Public benefit and other specific conveyances are typically either approved or sponsored by the authorized Federal Agency. In approved transfers, the Federal Agency must grant its approval but property conveyance is accomplished by the Military Department. In sponsored transfers, the Military Department assigns the property to the Federal Agency, upon request, and the Federal Agency is responsible for conveyance of the property to its recipient.

²Property for shrines, memorials or other religious purposes is eligible for public benefit conveyance (PBC) only as part of a parcel transferred under another PBC mechanism.

³42 U.S.C. § 11411 designates uses for homeless assistance as a specific public health category under FPASA § 203(k) and gives priority to such uses when considering PBCs.

⁴When the activities of a Federal Agency result in the displacement of persons from their housing, the Federal Agency may request surplus property for replacement housing. Transfer of property is directly from the Military Department to an eligible State agency.

Acronyms and Abbreviations used in Table A-2

CFR	<i>Code of Federal Regulations</i>
FMV	Fair Market Value
FPASA	Federal Property and Administrative Services Act, 40 U.S.C. § 471 <i>et seq.</i>
LRA	Local Redevelopment Authority
NDAA 92/93	National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. 102-190
NDAA 94	National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160
SPA	Surplus Property Act, 50 U.S.C. App. § 1622(d) and 49 U.S.C. §§ 47151-47153
U.S.C.	<i>United States Code</i>
URARPAPA	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646

Table A-3. Statutorily Imposed Deadlines for BRAC 95 Installations

REQUIREMENTS [SOURCE(S)]	DEADLINE
CLOSURE-RELATED ACTIVITIES	
Initiate Closure and Realignment Activities [DBCRA 90 § 2904(a)]	2 years <i>after</i> Presidential approval for closure July 1997
Complete Closure and Realignment Activities [DBCRA 90 § 2904(a)]	6 years after Presidential approval for closure July 2001
Withhold Relocation of Personal Property with Redevelopment Value Sustain Maintenance at or Above Minimum Levels to Support Reuse [DBCRA 90 § 2905(b), as amended by NDAA 94 § 2902]	Neither relocation of personal property nor reduction of maintenance levels necessary to support reuse is allowed before the earliest of: (1) one week <i>after</i> submittal of redevelopment plan; (2) notice of intent not to submit a redevelopment plan; (3) 90 days before closure (4) 24 months <i>after</i> the date of approval*
COMMUNITY ASSISTANCE	
Designate Transition Coordinator [NDAA 94 § 2915(b)]	15 days <i>after</i> the date of approval*
Hold Community Seminars on Reuse and Redevelopment [NDAA 94 § 2916 (Sense of Congress)]	6 months <i>after</i> the date of approval*
Consider Applications for OEA Assistance [10 U.S.C. § 2391(b), as amended by NDAA 94 § 2913]	Planning Grants: 7 days after application submittal Community Adjustment and Diversification Grants: 30 days after application submittal
Identify and Obtain Regulatory Concurrence on Uncontaminated Parcels [CERCLA § 120(h)(4) and NDAA 94 § 2910]	Earlier of (1) 9 months after submittal of proposed reuse; (2) 18 months <i>after</i> the date of approval*
Contract with Local Governments for Provision of Community Services [DBCRA 90 § 2905(b), as amended by NDAA 94 § 2907]	No earlier than 180 days before date of closure
PROPERTY INVENTORY, SCREENING, AND TRANSFER	
Inventory Personal Property [DBCRA 90 § 2905(b), as amended by NDAA 94 § 2902]	6 months <i>after</i> the date of approval"
Screen Property for Federal Agency Transfers; Make Excess and Surplus Determinations; Submit Property Information to HUD and LRA and Publish in <i>Federal Register</i> [DBCRA 90 § 2905(b), as amended by NDAA 94 § 2904 and BCCRHA § 2]	6 months <i>after</i> the date of approval"
Receive Notices of Homeless Provider Interest in Property (LRA) [DBCRA 90 § 2905(b), as amended by BCCRHA § 2]	3 to 6 months <i>after</i> LRA's newspaper publication (LRA's discretion)

Table A-3. Statutorily Imposed Deadlines for BRA C 95 Installations

REQUIREMENTS [SOURCE(S)]	DEADLINE
Complete Redevelopment Plan and Submit to HUD and DoD (LRA) (if homeless uses are included) [DBCRA 90 § 2905(b), as amended by BCCRHA § 2]	9 months after deadline for submission of notices of interest
Review Redevelopment Plan and Make Determination (HUD) [DBCRA 90 § 2905(b), as amended by BCCRHA § 2]	60 days after receipt of redevelopment plan
Revise Redevelopment Plan, if necessary (LRA) [DBCRA 90 § 2905(b), as amended by BCCRHA § 2]	90 days after HUD determination
Review Revised Redevelopment Plan, if necessary (HUD) [DBCRA 90 § 2905(b), as amended by BCCRHA § 2]	30 days after receipt of revised redevelopment plan
Report to DoD on Property Suitability and Acceptability of LRA's Plan, if necessary (HUD) [DBCRA 90 § 2905(b), as amended by BCCRHA § 2]	90 days after receipt of unsatisfactory revised redevelopment plan
Consider Entering into Agreements to Transfer Property by Deed in Exchange for Environmental Restoration [DBCRA 90 § 2905(e), as added by NDAA 94 § 2908]	Must be entered into by the date five years after enactment of NDAA 94 30 November 1998
ENVIRONMENTAL IMPACT ANALYSIS AND ENVIRONMENTAL CLEANUP	
Complete Environmental Impact Statement (EIS) [NDAA 94 § 2911]	12 months after submittal of redevelopment plan
Complete Remedial Investigations/Feasibility Studies (RI/FSs) [CERCLA § 120(e)]	<p>“ Commence RI/FS within 6 months of final NPL listing</p> <ul style="list-style-type: none"> • Enter into Federal Facility Agreement within 180 days after EPA review of RI/FS • Begin remedial action within 15 months of completion of NPL-required RI/FS

- Note The “date of approval” is the expiration date for the authority of Congress to disapprove the President’s recommendations, as defined in NDAA 94 § 2918(a) and § 2918(c).-

KEY

BCCRHA Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (known as the “Redevelopment Act”)

CERCLA Comprehensive Environmental Response, Compensation and Liability Act, as amended

CERFA Community Environmental Response Facilitation Act of 1992

DBCRA 90 Defense Base Closure and Realignment Act of 1990

NDAA 94 National Defense Authorization Act for Fiscal Year 1994

Summary of Key Provisions in Base Closure Laws

Key provisions contained in BCRA 88, DBCRA 90, NDAA 92/93, NDAA 93, NDAA 94, NDAA 95, and the Redevelopment Act are summarized below.

COMMUNITY ASSISTANCE

BCRA 88 and DBCRA 90, as amended by NDAA 94, require and/or authorize the Secretary of Defense to:

- . Provide economic adjustment assistance to any community located near a military installation being closed or realigned [Section 2905(a)(l)(B) of DBCRA 90].
- Inform a State or local government applying for assistance under 10 U.S.C. § 2391 (provisions for military base reuse studies and community planning assistance) of the approval or rejection of the application for such assistance within 7 days of receipt in the case of a planning grant, or 30 days of receipt in the case of a community adjustment and economic diversification grant [Section 2913 of NDAA 94].
- . Conduct seminars for each community in which a military installation is being closed no later than 6 months after closure is approved (also see Table A-3) [Section 2916 of NDAA 94]. Community seminars are to address the various Federal programs for the reuse and redevelopment of the installation, and provide information about employment assistance to members of these communities.

These requirements, along with those under 10 U.S.C. §2391, are earned out in large part by the following organizations:

- . DoD Component disposal and conversion organizations
- . The Office of Economic Adjustment (OEA) within the Office of the Secretary of Defense (OSD), which provides grants to communities for reuse planning (see Table A-3 for deadlines)
- . The Base Closure Transition Office (BCTO), within OSD, which coordinates the activities of all Base Transition Coordinators and serves as a clearinghouse for facilitation, coordination, and resolution of Federal Agency issues and other base conversion-related issues
- . The Economic Development Administration (EDA) within the Department of Commerce, which provides economic development grants to communities impacted by base closures in accordance with Section 4305 of NDAA 93
- . Other Federal Departments and Agencies, which sponsor public benefit conveyances and other conveyances.

CONTRACTING WITH LOCAL AND/OR SMALL OR DISADVANTAGED BUSINESSES
Section 2912 of NDAA 94 requires the Secretary of Defense, when entering into contracts for base closure or realignment, to give preference to qualified businesses located in the vicinity of the installation and to small or disadvantaged business concerns. This preference is specifically extended to include contracts for environmental restoration and mitigation.

BASE TRANSITION COORDINATORS

Section 2915 of NDAA 94 requires the Secretary of Defense to designate a Base Transition Coordinator (BTC) for each closing installation. Transition Coordinator responsibilities are described in NDAA 94 in terms of overall base conversion process facilitation. The BTCS are centrally managed by the Base

Closure and Transition Office (BCTO). Together, the BCTO and BTCS assist base closure communities and the Military Departments in rapid disposal and quick reinvestment of property into productive reuse by acting as a point of contact and facilitator for closure and reuse issues. For example, the BCTO and BTCS assist with resolution of site specific problems and issues, provide monthly community feedback reports to the Deputy Under Secretary of Defense (Industrial Affairs and Installations), and disseminate information pertinent to the closure and reuse process.

ACCELERATING REAL PROPERTY SCREENING

BCRA 88 and DBCRA 90, as amended by Section 2904 of NDAA 94, require the Secretary of Defense to complete formal screening of real property with other Federal Agencies by June 1, 1994 for BRAC 88, 91, and 93 closures and realignments, or within six months of the approval date for future base closures and realignments (see Table A-3). These dates may be postponed, however, if the Secretary of Defense determines that postponement is in the best interest of the community.

HOMELESS ASSISTANCE (MCKINNEY ACT)

The Stewart B. McKinney Homeless Assistance Act, and BCRA 88 and DBCRA 90, as amended by Section 2905 of NDAA 94, require the Secretary of Defense to compile a list of property available for use by “homeless providers” by June 1, 1994, for BRAC 88, 91, and 93 closures and realignments, or within six months of the approval date for future base closures and realignments (see Table A-3). The list of property must be submitted to the Department of Housing and Urban Development (HUD) by these dates, and HUD will then publish a notice of availability and suitability of the property. The homeless providers and HUD are then allotted a period of 60 to 175 days to complete the application and decision-making process in accordance with the McKinney Act. In the absence of an expression of interest to HUD in property suitable for the homeless, an LRA can incorporate the property into its redevelopment plan by submitting written expressions of interest to the DoD Component.

HOMELESS ASSISTANCE (BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT)

The Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. L. 103-421) amended DBCRA 90 to exempt BRAC 95 installations (and those BRAC 88, 91, and 93 installations whose LRAs submitted a request prior to December 24, 1994) from the McKinney Act and created a new, community-based process for addressing homeless needs in base closure communities. Under the new process, the LRA is responsible for identifying and accommodating community homeless needs in its redevelopment plan, which is submitted with supporting information to HUD. HUD reviews the LRA’s submission and either approves the plan’s homeless provisions or reports to the Military Department on the suitability of buildings and property at the installations for use to assist the homeless and the extent to which the LRA’s application meets HUD’s review criteria. The new process also established a new conveyance authority by which real or personal property to be used for homeless assistance purposes can be transferred at no cost to an LRA or directly to a representative of the homeless.

PERSONAL PROPERTY

BCRA 88 and **DBCRA 90**, as amended by Sections 2902 and 2909 of **NDAA 94**, require the Secretary of Defense to inventory personal property (except for certain categories not available to the LRA for reuse) within six months of the approval date for 1995 base closures and realignments (see Table A-3). Section 2902 of **NDAA 94** also stipulates that personal property shall not be removed from a closing or realigning base (unless exemptions are approved) until the expiration of one of four specific time periods. These four time periods are summarized in Table A-3. Limitations on the type of personal property eligible for transfer to communities are contained in Sections 2902 and 2909 of **NDAA 94** as well.

MILESTONES FOR ENVIRONMENTAL ANALYSIS

Provisions in **NDAA 92/93** and **NDAA 94** specify dates for completion of several environmental analysis activities. These are shown in Table A-3 under the headings Environmental Impact Analysis and Environmental Cleanup.

TRANSFER OF REAL PROPERTY

BCRA 88 and **DBCRA 90**, as amended by Section 2903 of **NDAA 94**, authorize the Secretary of Defense to transfer real and personal property at closing bases to LRAs for less than fair market value under standards and constraints of the statute. Section 2906 of **NDAA 94** amends 10 U.S.C. § 2667 and provides similar authority during the leasing of property.

ESTABLISHING BASE CLOSURE ACCOUNTS

Provisions of **BCRA 88** and **DBCRA 90**, as amended or limited by Sections 2921 and 2922 of **NDAA 94**, require the establishment of separate transfer accounts to fund, and receive proceeds from, base closure and realignment activities. The first is known as the “Department of Defense Base Closure Account” (**BRAC I, or BRAC Part 1**, Section 207 of **BCRA 88**) which is administered for installations designated under **BCRA 88**. The second account is known as the “Department of Defense Base Closure Account 1990” (**BRAC II, or BRAC Part II, Section 2906 of DBCRA 90**) and is administered for installations designated under **DBCRA 90** (includes bases selected for closure and realignment in 1991, 1993 and 1995). The **Part II** account maybe further subdivided into separate accounts for each round of closures and realignments.

CONTRACTING WITH COMMUNITIES FOR POLICE AND FIRE SERVICES

BCRA 88 and **DBCRA 90**, as amended by Section 2907 of **NDAA 94**, Section 2839 of **NDAA 96**, and Section 2812 of **NDAA 97**, authorize the Secretary of Defense to enter into agreements (including contracts, cooperative agreements, and other arrangements for reimbursement) with local governments for police services, fire protection services, airfield operation services, or other community services at installations to be closed or at facilities not yet transferred or otherwise disposed of at closure sites. This authority cannot be exercised earlier than 180 days before the date on which the installation is to be closed (see Table A-3).

Summary of Key Statutes Referenced by Base Closure Laws

STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Section 2905 of NDAA 94 amends Section 204(b) of BCRA 88 and Section 2905(b) of DBCRA 90, by prescribing revised processes for compliance with the Stewart B. McKinney Homeless Assistance Act (McKinney Act, 42 U.S.C. § 11301 *et seq.*) at closing bases.

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT (FPASA)

Section 204(b) of BCRA 88 and Section 2905(b) of DBCRA 90 give the DoD Component (through delegation from GSA to the Secretary of Defense) authority to utilize and dispose of excess and surplus property under Sections 202 and 203 of the Federal Property and Administrative Services Act, as amended (40 U.S.C. §§ 483 and 484, respectively).

Section **202** of the FPASA authorizes the DoD Component to promote the utilization of excess property by executive agencies (i.e. executive Departments, Agencies, or wholly owned Government corporations), and/or transfer excess property to other Federal Agencies for use.

Section **203** of FPASA authorizes the DoD Component to dispose of surplus property

“by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, and upon such terms and conditions as the [DoD Component through its delegation of authority from the Secretary of Defense] deems proper.. .”

and provides for the disposal of surplus property via a number of different methods:

- Through public advertising for competitive bids [Section 203(e)(2)]
- Through contract realty brokers [Section 203(e)(4)]
- . Through negotiated sale to State and local governments [*Sections* 203(e)(3), (5) and (6)]
- Through public benefit conveyances to State agencies and other eligible institutions within a State [Section 203(j)], including transfers of property for correctional facility use (subject to Department of Justice [DOJ] approval) [Section 203 (p)(l)], and transfers of property for use as a historic monument (subject to Department of the Interior [DOI] approval) [Sections 203(k)(3) and (4)]
- Through assignment of property to the Department of Education (DOEd) for disposal as educational facilities [Section 203(k)(l)]
- Through assignment of property to the Department of Health and Human Services (HHS) for disposal as public-health facilities [Sections 203(k)(l) and (4)]

- . Through assignment of property to the Department of the Interior (DOI) for disposal as a public park or recreational area [Sections 203(k)(2) and (4)]
- Through donation to the American National Red Cross [Section 203(1)]

As amended by Section 2927 of NDAA 94, Section 203 of FPASA also authorizes the DoD Component (via delegation from the Secretary of Defense) to assign surplus property to the Secretary of Transportation needed for the development and operation of a port facility. Within specified time frames, and in consultation with the Secretary of Labor and Secretary of Commerce, the Secretary of Transportation is authorized under Section 2927 of NDAA 94 to transfer such assigned property to States or territories.

In exercising its delegated authorities under the provisions of FPASA, the DoD Component is required to comply with the Federal Property Management Regulations (FPMR), promulgated pursuant to the FPASA, that are currently in effect. These regulations, found at 41 CFR Part 101-47, prescribe the policies, guidelines, requirements, responsibilities and methods governing the utilization and disposal of excess and surplus real property and related personal property within the United States and its territories.

SURPLUS PROPERTY ACT (SPA)

Section **204(b)** of BCRA **88** and Section 2905(b) of DBCRA 90 give the DoD Component (through delegation from GSA to the Secretary of Defense) the authority to grant approvals and make determinations under Section 13(g) of the Surplus Property Act, as amended [49 U.S.C. §§ 47151-47153].

In exercising this authority, the DoD Component is required to comply with the FPMR and all other regulations promulgated pursuant to Section 13(g) of the SPA that are currently in effect.

ACT OF MAY 19, 1948

Section 2905(b)(D) of DBCRA 90 gives the DoD Component (through delegation from GSA to the Secretary of Defense) the authority to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with 16 U.S.C. § 667b. This otherwise unnamed statute authorizes the transfer and utilization of Federally owned real property for wildlife conservation purposes. It provides the basis by which surplus Federal real property may be transferred at no cost to a state or the Department of the Interior (DOI) for management and administration. Under terms of this Act, the DoD Component may transfer parcels of property suited for wildlife resources (e.g., migratory birds, upland game and animals) to other Federal and state agencies via Federal transfer or public benefit conveyance procedures. Sections 2 and 3 of this statute require publication of transfers for wildlife purposes in the *Federal Register*, including a description of the intended uses of the property.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Compliance with NEPA is required by Section **204(c)** of BCRA **88** and Section **2905(c)** of DBCRA **90**. In particular, Section 2905(c)(2)(A) states that the provisions of NEPA shall apply to actions of the [DoD Component] . . . during

Laws and Regulations Affecting Base Reuse Implementation

the process of property disposal. . . . To comply with NEPA for disposal of installation property, the DoD Component must comply with the regulations in 40 CFR Parts 1500-1508, developed by the Council on Environmental Quality (CEQ), and any other Component-specific regulations pertaining to environmental impact analysis.

SECTION 120 OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

Activities for complying with Section 120 of CERCLA are part of the Ongoing Environmental Cleanup Process, which is managed under the DoD Component's BRAC Cleanup Plan.

COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT (CERFA)

Enacted on 19 October 1992, CERFA (Pub. L. 102-426) amends Section 120(h) of CERCLA by adding the following:

- Minimum procedures for identifying uncontaminated property at closing military installations [new Section 120(h)(4)]. These procedures require the Environmental Protection Agency (for bases on the National Priorities List [NPL]), or the "appropriate State official" (for bases not on the NPL), to concur with uncontaminated property determinations by the DoD Component
- Language clarifying that the covenant required in Section 120(h)(3)(B)(i), that "all remedial action necessary to protect human health and the environment with respect to any [hazardous] substances remaining on the property has been taken," may be given when an approved remedial action is in place and operating properly and successfully [modified Section 10]. [Note: In some cases, property can now be transferred to private parties before remedial action has been taken and the covenant requirements have been fulfilled.]
- Requirements for Federal Agencies (e.g., the DoD Component) to notify States of leases that will be in effect after the scheduled closure date [new Section 120(h)(5)]
- Compliance with CERFA is critical for accomplishing the transfer of uncontaminated and remediated property. For BRAC 88 and BRAC 91 realignment and closure bases, identification of uncontaminated property and CERFA compliance has already occurred. For BRAC 93 and BRAC 95 bases, identification and concurrence must be completed no later than 18 months after the approval date [CERCLA § 120(h) (4)(C)(iii)]. Section 2910 of NDAA 94 has added the further requirement that CERFA identifications and concurrences be completed within 9 months of the submittal of the LRA's approved Redevelopment Plan.